



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 3484-00

28 September 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: ET3(SS) [REDACTED] USN [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 4 May 00 w/attachments  
(2) PERS-311 memo dtd 28 Jun 00  
(3) PERS-85 memo dtd 19 Jul 00  
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the enlisted performance evaluation report for 27 December 1998 to 11 May 1999. A copy of this report is at Tab A to enclosure (1). He further requested advancement to pay grade E-5, electronics technician second class (ET2), with an effective date of December 1999.

2. The Board, consisting of Ms. Davies and Messrs. Frankfurt and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 27 September 2000, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the Navy Personnel Command (NPC) Performance Evaluation Branch (PERS-311), the office having cognizance over the subject matter addressed in Petitioner's request to remove his performance evaluation report, has commented to the effect that this request has merit and warrants favorable action.

c. In correspondence attached as enclosure (3), the NPC Officer Promotions and Enlisted Advancements Division (PERS-85) has commented to the effect that Petitioner's

request to be advanced has merit and warrants favorable action. They recommend advancement to ET2 with an effective date of 16 June 1999 (a date more favorable than Petitioner requested) and time in rate date of 1 January 1999.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (3), the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing therefrom the following enlisted performance evaluation report and related material:

Date of Report	Reporting Senior	Period From	of Report To
17 Jun 99	[REDACTED] USN	27 Dec 98	11 May 99

b. That there be inserted in Petitioner's naval record a memorandum in place of the removed report, containing appropriate identifying data concerning the report; that such memorandum state that the report has been removed by order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such boards may not conjecture or draw any inference as to the nature of the report.

c. That appropriate corrections be made to the magnetic tape or microfilm maintained by the Navy Personnel Command.

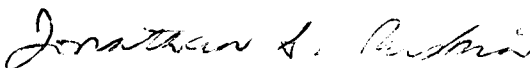
d. That Petitioner's naval record be corrected to show he was advanced to ET2 (pay grade E-5) with an effective date of 16 June 1999 and a time in rate date of 1 January 1999.

e. That any material or entries relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

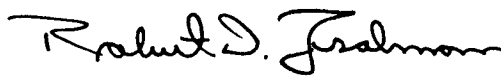
f. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
For W. DEAN PFEIFFER  
Executive Director



DEPARTMENT OF THE NAVY  
NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1610  
PERS-311  
28 June 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: ET3 [REDACTED], USN

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of all documentation concerning NJP he received on 11 May 1999.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record did not reveal a performance evaluation concerning NJP, however, the member provided a copy of a frocked E-5 evaluation for the period 27 December 1998 to 11 May 1999.

b. The report in question is a Special/Regular report to document the member receiving Commanding Officer, Non-Judicial Punishment and reduction in rate to E-3.

c. The member provided documentation from his Commanding Officer that the NJP of 11 May 1999 was set aside on 28 September 1999. Per reference (a), Annex N, as the member's rights and privileges have been restored, the comments concerning NJP are now inappropriate.

d. The member proves the report to be unjust or in error.

3. We recommend the performance evaluation for the period 27 December 1998 to 11 May 1999 not be filed in his record.

[REDACTED]

Head, Performance  
Evaluation Branch



**DEPARTMENT OF THE NAVY**

**NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000**

1430  
Ser 85/788  
19 Jul 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL  
RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF  
[REDACTED] USN [REDACTED]

Ref: (a) BUPERSINST 1430.16D

Encl: (1) BCNR file #03484-00

1. Based on policy and guidelines established in reference (a), enclosure (1) is returned recommending approval.

2. Since Petty Officer [REDACTED] Non-judicial Punishment of 14 June 1999 was set aside, all privileges should be restored. His records should be changed to indicate he was advanced to ET2 effective 16 June 1999 with a time in rate of 1 January 1999.

[REDACTED]  
By direction